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ROBERT MACKEY
LUXURY TOY CLUB, LLC.
1012 PROSPECT ST. STE. 310
LA JOLLA, CALIFORNIA 92037
Phone: 619-261-7000

Debtor In Pro Se

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re,

Case No. 3:11-bk-17177

LUXURY TOY CLUB, LLC.

Debtor

EMERGENCY MOTION TO
SET ASIDE ORDER DECLARING
NON-RESIDENTIAL
LEASE REJECTED, AUTHORIZING AND
DIRECTING TRUSTEE TO TURNOVER
POSSESSION OF PREMISES TO THE
BANKRUPTCY COURT CUSTODIAN
AND FOR RELIEF FROM AUTOMATIC
STAY

[F.R.C.P. Rule 62]

Date: None Set
Time:
Courtroom:

TO ALL PARTIES AND RESPECTIVE COUNSEL HEREIN,

NOTICE IS HEREBY GIVEN, that on the date and time hereafter set forth by the Court,
Debtor LUXURY TOY CLUB, through its Operating Manager, Robert Mackey, will and hereby does
move the Court via Emergency Motion and pursuant to F.R.C.P Rule 62 to Set Aside the Courts
Order on November 04, 2011 Declaring Non-residential Lease Rejected, Authorizing and Directing
Trustee to Turnover Possession of Premises to the Bankruptcy Court Custodian and for Relief from

apb, JD. 11/7/11eme

1 Automatic Stay. The motion will be base on this Notice of Motion, on the Record(s) on file herein
2 on the Declaration of Robert Mackey, on those matters which may be judicially noticed and on any
3 and all further supporting evidence which may be presented at the time of hearing on the instant
4 motion.

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STATEMENT OF FACTS

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8 Immediate Relief is Requested for November 3rd Court Order (allegedly signed by Louise DeCarl
9 Adler) due to improper submission as an "Emergency Motion", numerous factual errors noted below,
including leased property and parties included in order that are not related to Luxury Toy Club, LLC
Chapter 7 filing.

10 This Order was created by Mr. Richard Kipperman's attorney to attempt to circumvent the California
11 State law and the legal eviction process by using his power and influence, and knowledge thereof in
the US Bankruptcy Court.

12 Mr. Kipperman and his associates have now been admonished by San Diego Police three times for
13 breaking and entering, wrongful eviction attempt, illegal employee lockout and other illegal actions.
See details below under Illegal Actions.

14

15 Facts in Opposition to "Emergency Motion" filing by Mr. Kipperman by attorney Gary Slater include:

16 Foremost this is clearly not an "Emergency", the normal 11 days to respond to Motion should apply
17 and there should be proper notice of a hearing date.

18 Furthermore, the follow facts outline further evidence of misleading and fraudulent statements
included in the filing.

19

20 1. 1012 Prospect St. Suite 300 is not involved in any way with the Luxury Toy Club, LLC (LTC) Chapter
7 Bankruptcy filing. LTC has not had a lease for Suite #300 or occupied Suite #300 for over 3 years.

21 2. The only connection of Luxury Toy Club, LLC to Suite #300 is a frivolous lawsuit that Mr. Kipperman
22 has filed in ERROR. LTC has consistently maintained it does not have a lease for suite 300, nor
occupy Suite #300.

23 3. LTC was forced to file Bankruptcy solely due to Mr. Kipperman's frivolous attempt to improperly evict
e-Mail Networks, Inc. by filing suit against LTC which does not occupy that Suite #300.

24

25 4. E-Mail Networks, Inc. (EMN) is not related to the LTC Chapter 7 filing. It occupies Suite #300 at the
exclusive verbal and written request of Mr. Richard Kipperman. See exhibits A, B and C for written
agreements and good faith payments. Mr. Kipperman has refused payments from e-Mail Networks,
26 Inc. and has not delivered a new lease for e-Mail Networks, Inc. as promised in writing in exchange for
EMN of moving to Suite #300 as he requested.

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1 5. LTC Trustee, Mr. Leonard Ackerman and his attorney have both confirmed in their filings on
 2 November 1, 2011 that the illegal attempted seizure and the actual illegal search of Suite #300
 occurred and, in fact, no evidence that LTC occupied Suite #300 was found as maintained by LTC.

3
 4 **Illegal Actions** in Mr. Kipperman's continuing Illegal Wrongful Eviction attempts:

5 **Retaliation Eviction attempt against e-Mail Networks, Inc. by Property Manager, directed**
 6 **by Richard Kipperman and Gary Slater**

7 Events of Thursday October 20, 2011

8 At approximately 9 a.m. while Robert Mackey, representative for the defendants e-Mail Networks,
 Inc. and Luxury Toy Club, LLC was leaving the Courthouse (made appearance on frivolous
 9 Unlawful Detainer case for Suite #300 filed by Richard Kipperman) when he was notified that
 Mary Wang, Property Manager for Newmark Merrill (hired by Receiver Richard Kipperman) had
 instructed a locksmith and another male individual to forcefully remove employee, Martyn
 10 Castens from the current e-Mail Networks, Inc. offices.

11 Mr. Casten's reported there events to Robert Mackey, and he promptly called Property Manager
 Mary Wang's cell phone as she instructed Marty Casten's to do to get details of invasion. Her
 12 voicemail message was reached twice and I informed her that there must be a mistake because that
 Suite #300 is still in litigation and NO court Writs had been issued, notice given of ANY sort. She
 13 provided no response and no official paperwork for her actions.

14 Five e-Mail Networks, Inc. team members were literally locked out of their place of business as
 they arrived to work where they were approved to operate by Mr. Richard Kipperman by oral AND
 15 written agreements. In fact, one of the letters confirming e-Mail Networks, Inc. RENT
 AGREEMENT for Suite #300 was signed by Mary Wang herself. The other letter of
 16 confirmation was signed by Richard Kipperman's attorney Mr. Gary Slater.

17 e-Mail Network's, President, Michelle Gilmore was forced to reschedule internal and client
 meetings as well as send Team members to work from home due to illegal lockout.

18 After consulting with law enforcement and attorneys it was determined that it was clearly an illegal
 retaliation lockout with no valid court orders. E-Mail Networks, Inc. was advised to change locks
 back to their control to mitigate losses of missing items and possible paper or digital data theft.

19 After employees left area to avoid conflict, there was at least one, maybe more individuals that
 20 entered various rooms where sensitive client data is stored. We are currently under a complete
 security audit to determine data integrity damages. Missing items so far include, bank statements,
 21 keys, and data USB drive.

22 Events of Wednesday, October 26, 2011

23 At approximately 9 a.m. the second break-in attempt was ordered by Mary Wang to AGAIN
 attempt to deny e-Mail Networks, Inc. use of its office space that it occupies with permission of
 24 Richard Kipperman in writing from his Property Manager and his Attorney.

25 Mary Wang and security guard attempted to again forcefully remove myself and e-Mail Networks,
 Inc. employees from our business. She tried to force herself inside with no prior notice or any
 26 official court paperwork. She was so arrogant that she said she did not need any court permission
 to evict e-Mail Networks, Inc.

1 I, Robert Mackey called the police to restore order to this harassment. I also called Mr. Leonard J. Ackerman, who is newly appointed Trustee for the Luxury Toy Club, LLC Chapter & filing.
 2 Mary Wang was stating that he ordered the attempted break-in and attempted lockout.
 3 We kept door locked until Mr. Ackerman and Police arrived to keep order as Mary Wang was continuing her harassment and insistence of some power of seizure and eviction for which she had no authority.

4 I explained to the Police Officers that Mary Wang and Associates had broken into to e-Mail Networks, Inc. offices on October 20th and attempted to do so again today with no authority. I showed the two female Police Officers the two letters which clearly provide for e-Mail Networks, Inc. to occupy Suite #300. Neither Mary Wang or Leonard Ackerman had any paperwork to show the Police Officers to justify Mary Wang's break in attempt.

7 I then met with Trustee, Mr. Ackerman and Jacquelyn Rigg, a Paralegal for Mr. Ackerman's attorney. I explained to he and Jacquelyn that Luxury Toy Club, LLC does not occupy Suite #300 and there is NO justification whatsoever for the intrusion and harassment by Mary Wang and her associates.

9 I also explained to Mr. Ackerman that he was not getting the true story about the lease legal issues and suggested he proceed carefully until he can get all the facts. He was still insistent to collect "data" about Luxury Toy Club, LLC that obviously someone had suggest he attempt to do.

11 I generously allowed him to run a "search" on e-Mail Networks, Inc. computers and snoop through files, boxes, paperwork and everywhere so he was satisfied that Luxury Toy Club, LLC was in fact NOT in business in Suite #300 as I have ALWAYS maintained.

13 He searched everywhere and Jacquelyn took photos to confirm that in fact their investigation confirmed that the computers, files, employees, etc. were all that of e-Mail Networks, Inc., NOT Luxury Toy Club, LLC as Mary Wang (and others) suspected even though she was clearly informed of otherwise by me.

15 The two San Diego Police Officers also did their own investigation and also confirmed the facts as stated. When I and then the Police Officers all asked Mary Wang to leave she refused. I had to leave to pick-up kids from school and had to make special arrangements as Mary Wang STILL REFUSED TO LEAVE the Suite AND STOP THE HARRASMENT EVEN WHEN ASKED TO DO SO BY THE SAN DIEGO POLICE!

18 The Police informed the trespassers that they must leave and it would be noted in their report that they would be arrested if any issues arose or locks were changed after they left.

20 Events of Friday, November 4, 2011

21 Again on Friday, November 4, 2011 at approximately 4:30 pm Mr. Kipperman himself STOPPED e-Mail Networks, Inc. team members from working and attempted to force them outside into the rain. He held only a court order formulated by fraudulent misrepresentations to the court and would not assist to verify it was authentic.

23 He attempted to do a lockout AGAIN even though the correct LEGAL procedure (if the order was even valid) is clearly noted in the Order. As noted, Mr. Kipperman refused to assist to contact the court to confirm the Order's validity sense it was clearly issued in error and not based on facts.

25 He commented, too bad the court is closed for the day now.

1 Robert Mackey made attempts to contact court and LTC Trustee. I left messages with no return
2 calls.

3 San Diego Police were called for the 3rd time in two weeks to AGAIN stop Mr. Kipperman (and
4 other staff of his, including locksmiths) from attempting another illegal work stoppage, break-in
and lock-out of e-Mail Networks, Inc.

5 After holding-Mail Networks team members and Mr. Mackey hostage in their own "e-Mail
6 Networks , Inc. suite" for several hours the San Diego Police finally arrived and asked Mr.
Kipperman to again depart the building and halt his illegal eviction strategy.

7
8 The locks had to be changed back for the 2nd time in two weeks after San Diego Police cleared out
Mr. Kipperman's trespassing parties. It took over two hours to repair lock damages by Mr.
9 Kipperman's locksmith.

10 Mr. Kipperman's actions again exposed hundreds of e-Mail Network's clients and millions of
11 subscriber's personal data to be at high risk. A security audit is underway from this past illegal
break-in.

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13 Submitted by Robert Mackey, CEO of e-Mail Networks, Inc., Operating Manager of Luxury Toy
Club, LLC.

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Exhibit A

Sent Via E-Mail and Standard U.S. Mail

→ February 16, 2011

C Luxury Toy Club, LLC
E-Mail Networks, Inc.
Attn: Robert Mackey
1012 Prospect Street, Suite 300
La Jolla, CA 92037

RE: RENT AGREEMENT
Luxury Toy Club/E-Mail-Networks
1012 Prospect Street, Suites 300-310
La Jolla, CA 92037

Dear Mr. Mackey:

Per the meeting on February 15th, 2011, Tenant agrees to pay \$2,500.00 per month for the above mentioned Premises effective February 1st, 2011. Enclosed is your statement which is payable by March 1st, 2011.

Please make the check payable to the following:

La Jolla UTC Corp., Richard M. Kipperman, Receiver

Payment should be sent to the following address:

La Jolla UTC Corp., Richard M. Kipperman, Receiver
c/o NewMark Merrill Companies
427 College Boulevard, Suite K
Oceanside, CA 92057

Please contact me at (760) 630-8247 extension 106 should you have further questions.

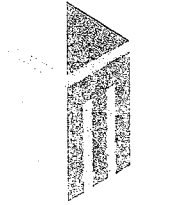
Sincerely,

NewMark Merrill Companies
Property Management Company for Prospect Plaza



Mary Wang
Property Manager

cc: Richard M. Kipperman, Receiver, via e-mail only.
Jennifer Miller, via e-mail only.
Michael Balingit, via email only.
Gary S. Slater, via e-mail only.



NewMark Merrill
Companies

427 College Blvd.
Suite K

Oceanside, CA 92057

tel: (760) 630-8247

fax: (760) 630-4693

www.newmarkmerrill.com

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FACSIMILE
(858) 675-0733
WEBSITE
www.slatertruxaw.com

February 16, 2011

VIA E-MAIL AND FAX ONLY

C. Michael Balingit, Esquire
1012 Prospect, Suite 310
La Jolla, CA 92037
FAX: (858) 456-7855

(E-mail: cmbalingit@gmail.com)

VIA E-MAIL ONLY

Robert Mackey, CEO
Toy Luxury Network, LLC
E-Mail Networks, Inc.
1012 Prospect, Suite 310
La Jolla, CA 92037

(E-mail: rm@e-MailNetworks.com)

Re: GECMC 2007-C1 Prospect Street Limited Partnership vs. La Jolla UTC Corporation.
San Diego Superior Court Case No.: 37-2010-00101501-CU-OR-CTL
Receiver: Richard M Kipperman
Subject Premises: 1012 Prospect, Suites 300-310, La Jolla, CA 92037
Our File Number: RE05.9495

Dear Mr. Balingit and Mr. Mackey:

Thank you for meeting with the Receiver, Ms. Miller, Ms. Wang and I yesterday.

The Receiver is in the process of formulating a formal lease offer along the lines of what we discussed. As soon as that lease proposal can be reduced to writing, it will. It is anticipated that the lease proposal will need to be approved by the lender who initiated the receivership action in this case.

In the meantime, Toy Luxury Network, LLC and E-Mail Networks, Inc. ("Tenants") shall pay the sum of \$2,500.00 per month for the subject premises, effective February 1, 2011.

C. Michael Balingit, Esq.
Robert Mackay, Esq.
February 16, 2011
Page 2

Payment of this monthly amount shall be without prejudice to all claims and defenses of all parties while the proposed lease transaction is refined and finalized.

Please have the February 1st payment of \$2,500.00 delivered to Ms. Wang forthwith. Do not hesitate to contact me, Ms. Miller or Ms. Wang with any questions or comments.

Sincerely,

SLATER & TRUXAW, LLP

By: 
Gary E. Slater

GES/abc
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cc: Richard M Kipperman, Receiver, via e-mail only.
Jennifer Miller, via e-mail only.
Mary Wang, Property Manager, via e-mail only.



PENALTY WARNING STATEMENT

SAN DIEGO COUNTY
TREASURER-TAX COLLECTOR
1600 Pacific Highway, Room 162
San Diego, Ca 92101
web site: <http://www.sdtreastax.com>

If still unpaid on **SEP. 30, 2011**, the tax bill listed below in the amount of **\$60.58** will each accrue a 10% delinquency penalty. Your payment must be postmarked on or before that date to avoid the penalty. Separate penalty warning statements will be used for any tax bills with a name or address that varies from the address below.



LUXURY TOY CLUB LLC
1012 PROSPECT ST #310
LA JOLLA CA 92037

DAN McALLISTER
TREASURER-TAX COLLECTOR

IF YOU HAVE RECENTLY PAID THIS
TAX BILL, PLEASE DISREGARD THIS
STATEMENT.

11-080101

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DETACH THE ABOVE STUB AND RETURN WITH YOUR PAYMENT.

THIS STATEMENT ONLY CONTAINS A TAX BILL SUBJECT TO PENALTY ACCRUAL ON THE DATE ABOVE. PLEASE CALL (877) 829-4732 CONCERNING THE STATUS OF ANY OTHER TAX BILL/S.

TAX BILL	AMOUNT	PROPERTY TYPE/NUMBER
11-080101	\$60.58	PERSONAL PR/743-0011597

ASSESSMENT QUESTIONS

For information concerning the named assessee/s, valuation, assessment periods or the original mailing address, contact :

San Diego County Assessor, 1600 Pacific Highway, Room 103, San Diego, Ca 92101 or telephone:

Business.....(858) 505-6100	Realty :
Boats.....(858) 505-6200	San Diego.....(858) 505-6262
Airplanes.....(858) 505-6200	El Cajon.....(619) 401-5700
Possessory Interest....(858) 505-6081	Chula Vista.....(619) 498-2200
Mobile Homes.....(619) 531-5478	San Marcos.....(760) 940-6868
Institutional(Exempt)..(619) 531-5763	Failure To File.....(619) 531-5848
Homeowner(Exempt).....(619) 531-5772	

PAYMENT QUESTIONS

Telephone Inquiries :
(877) 829-4732

Written Inquiries:

DAN McALLISTER
San Diego County
Treasurer-Tax Collector
1600 Pacific Highway Rm 162
San Diego, CA, 92101

Fax:
(619) 685-2589

DISCOVER and VISA Card Payments:
(877) 829-4732

VISA and MASTERCARD Card Payments:
www.sdtreastax.com

Tax bills involved in bankruptcy, legal action, or other special circumstances may not be shown on this statement. Please call (877) 829-4732 with questions concerning tax bills not shown on this statement.

RECENTLY ENROLLED CURRENT YEAR TAX BILLS MAY BE COLLECTED SIMULTANEOUSLY WITH DELINQUENT PRIOR YEAR TAX BILLS BY ENFORCED COLLECTION.